



OFFICE OF
THE CHAIRMAN

EX PARTE OR LATE FILED

~~DOCKET FILE COPY DUPLICATE~~

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON

OCT 19 1993

Dockets
222

DOCKET FILE COPY ORIGINAL

RECEIVED

OCT 26 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable Edward J. Markey
Chairman, Subcommittee on
Telecommunications & Finance
Committee on Energy & Commerce
House of Representatives
316 Ford House Office Building
Washington, DC 20515

93-253

Dear Chairman Markey:

This is in response to your letter of September 20, 1993, addressing our rule making proceeding on personal communications service (PCS).

On September 23, 1993, the Commission adopted provisions that allocate spectrum and promulgate rules for PCS. We also proposed rules to implement the provisions of the Omnibus Budget Reconciliation Act of 1993 that relate to PCS, including the assignment of licenses by competitive bidding and the classification of PCS as a mobile service as provided in amendments to section 332 of the Communications Act.

In the PCS proceeding, we allocated 160 megahertz in the emerging technology bands at 2 GHz for PCS services. Licensed services were allocated a total of 120 megahertz. This substantial amount of spectrum is four times the spectrum originally allocated to the cellular radio service. We believe this is sufficient to foster new mobile services and technologies and to promote competition among PCS providers as well as between PCS providers and cellular operators. We expect that this allocation will ensure the rapid development and implementation of service and provide the flexibility necessary for PCS licensees to coordinate with existing microwave licensees.

Unlicensed PCS devices were allocated a total of 40 megahertz of spectrum. This allocation was divided between voice-like operations and data-like operations, with each receiving 20 MHz. This amount of spectrum for unlicensed PCS should foster development of a wide range of new wireless services and devices for both voice and data uses.

The channeling plan for the licensed services provides two 30 MHz channel blocks, one 20 MHz channel block, and four 10 MHz channel blocks. PCS licensees are permitted to aggregate up to 40 megahertz in any one service area. Licensees also will be able to aggregate service areas without restriction. This will permit between three and seven service providers per market, the number

depending upon aggregations that may occur during the competitive bidding process. The Commission concluded that this approach will ensure a robust and competitive market for PCS, foster a diversity of PCS offerings, permit broad participation in the provision of PCS (including participation by existing cellular providers), and permit the Commission to consider special opportunities to promote the participation in PCS of small businesses, rural telephone companies, and companies owned by minorities and women.

The service areas for the licensed services are based on Rand McNally's Major Trading Areas (MTAs) and Basic Trading Areas (BTAs) as defined in the First Report and Order which adopted rules for 900 MHz PCS, FCC No. 93-329 (released July 23, 1993.) There are 51 MTAs and 492 BTAs for licensing purposes. The Commission concluded that BTAs are representative of likely PCS markets in which local communications will take place and that MTAs will provide the economies of scale and scope necessary to promote development of low cost PCS equipment. MTAs also will facilitate operation of regional and, possibly, national systems that will promote roaming within a large geographic area and interoperability with other PCS systems.

Cellular licensees are permitted to hold a 10 MHz channel block in their cellular service areas. We believe that limiting a cellular provider to one 10 MHz channel block in its service area checks the potential for unfair competition. Cellular providers are permitted full participation in PCS outside of their service areas, defined as any PCS service area where the cellular licensee is authorized to serve less than 10 percent of the population. This approach will allow participation by cellular operators in PCS and provide opportunity for the early development of PCS by taking advantage of cellular providers' expertise, economies of scope between PCS and cellular service, and existing infrastructures.

The Commission established PCS licensing terms of 10 years and provided renewal expectancies similar to those which apply to the cellular service. The Commission expects that this relatively long license period and high renewal expectancy will provide a stable environment that is conducive to investment, and thereby will foster the rapid development of PCS.

For construction requirements, the Commission required PCS licensees to offer service to at least one-third of the population in their market areas within five years of being licensed, two-thirds within seven years and 90 percent within ten years.


Honorable Edward J. Markey

3.

Finally, regarding 2 GHz pioneer's preferences, the Commission deferred its decision on this issue. We currently are considering the fifty 2 GHz pioneer's preference requests and anticipate making a decision shortly addressing these requests.

Thank you for letting me know your views on PCS regulatory issues. I share your concern regarding competition in providing PCS services and believe that the public interest will be served best if there is vigorous competition among PCS providers, and between PCS and cellular providers. The Omnibus Budget Reconciliation Act of 1993 gives the Commission flexibility to ensure competition. As noted above, we have proposed rules to implement that legislation in two separate proceedings that address competitive bidding and mobile services. I anticipate that the Commission will adopt final rules in those proceedings in the first part of next year. I have enclosed copies of the press releases relating to all of these Commission actions on PCS.

Sincerely,

A handwritten signature in black ink, appearing to read "James H. Quello". The signature is fluid and cursive, with the first name "James" and last name "Quello" clearly distinguishable.

James H. Quello
Chairman

Enclosures

EDWARD J. BLARNEY, MA, CHAIRMAN

ALLY SAIZEN, LA
UCHER, VA
S. J. MAINTON, NY
D. H. LEBMAN, CA
CHENE, CA
MC MARRON-
RISSEY, PA
YNAR, OR
YDEN, OR
M. HALL, TX
CHANDSON, NM
ATTERY, KS
RYVANT, TX
KOPER, TN
G. DINGELL, MI
WICKO

JACK FIELDS, TX
THOMAS J. BLAKEY, JR., VA
MICHAEL G. OGBLEY, OH
DAN SCHALNER, CO
JOE BANTON, TX
ALEX MCCELLAN, NC
J. DENNIS HASTERT, IL
PAUL E. GILLMORE, OH
CARLOS A. MOOREHEAD, CA
(EX OFFICIO)

U.S. House of Representatives
SUBCOMMITTEE ON
TELECOMMUNICATIONS AND FINANCE
OF THE
COMMITTEE ON ENERGY AND COMMERCE
WASHINGTON, DC 20516-6119

FAX TRANSMITTAL

— FOR IMMEDIATE ATTENTION —

TO: Name:

Pete Belvin

Office:

Fax:

FCC

No. Pages (including cover) =

FROM:

Harry W.

COMMENTS:

FYI

If you experience any difficulties with this transmission, please call
(202) 226-2424. Thank you!

SEP 21 1993 11:52 FROM: TELECOMMUNICATIONS

AND MEMORANDUM THREE COMMISSIONERS

W.J. "BULLY" TAUER, LOUISIANA
 RICE BOUCHER, VIRGINIA
 THOMAS J. MANTON, NEW YORK
 RICHARD H. LEHMAN, CALIFORNIA
 LTHIE SCHWAB, CALIFORNIA
 MARJORIE MARCOLESE-MEDVENEY, PENNSYLVANIA
 LAKE EYKAR, OREGON
 RON WYDEN, OREGON
 RALPH M. HALL, TEXAS
 BILL RICHARDSON, NEW MEXICO
 JIM SLATTERY, KANSAS
 JOHN BRYANT, TEXAS
 JIM COOPER, TENNESSEE
 JOHN D. OGBELL, MICHIGAN
 EX OFFICIO

JACK FIELDS, TEXAS
 THOMAS J. SULLY, JR., VIRGINIA
 MICHAEL S. OXLEY, OHIO
 DAN ROHMEYER, COLORADO
 JOE BARTON, TEXAS
 ALEX MAMILLAN, NORTH CAROLINA
 J. DENNIS HASTERT, ILLINOIS
 PAUL E. GRILLOT, OHIO
 CARLOS J. MODOHEAD, CALIFORNIA
 EX OFFICIO

U.S. House of Representatives

Committee on Energy and Commerce

SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE

Washington, DC 20515-6119

September 20, 1993

ROOM HS-318
 6000 HOUSE OFFICE BUILDING
 PHONE (202) 225-2424
 DAVID H. MOULTON
 CHIEF COUNSEL AND STAFF DIRECTOR

The Honorable James H. Quello
 The Honorable Ervin S. Duggan
 The Honorable Andrew C. Barrett
 Federal Communications Commission
 1919 M Street, N.W.
 Washington, D.C. 20554

Dear Chairman Quello and Commissioners Duggan and Barrett:

I am writing to express my views on a number of important issues facing the Commission as it seeks to establish the rules for Personal Communications Services (PCS) in General Docket No. 90-314.

In establishing rules for PCS the Commission has a rare opportunity to define the future of communications. PCS, which will encompass a broad family of services, has the potential of shaping that wireless future in a way that benefits consumers and promotes innovation and commercial success by American companies and American workers. To realize that potential, the FCC should structure the rules so that a variety of companies can participate in the wireless revolution.

In order for PCS to deliver on the promise held out in its advance billing, the Commission must structure the market so that competition is encouraged and that competitors have a chance to compete against current providers of cellular service. In that regard, I urge the Commission to take all of its actions on PCS in light of the recently enacted Title VI of the Budget Reconciliation Act.

That legislation provides that the Commission must ensure that frequencies are allocated to stimulate the development of new communications technologies. The law also modifies some Federal requirements on the cellular industry, and preempts, at least initially, State rate regulation of cellular. Legislation that modifies these requirements only makes sense if we ensure competition from PCS; in fact, promoting competition by PCS was one of the reasons why I proposed as part of Budget Reconciliation to make spectrum available for new services.

The Honorable James H. Quello
The Honorable Ervin S. Duggan
The Honorable Andrew C. Barrett
Page 2
September 20, 1993

A decision that would permit the cellular industry to have an unequal share of radio spectrum "in region" runs the risk that an incumbent cellular carrier could dominate the wireless market in its service territory, possibly undermining this brand-new federal policy. For this reason, I urge the Commission to limit the ability of cellular companies to gain PCS spectrum within their service territory. Obviously, companies that are unaffiliated with a cellular provider should not be subject to these limitations. I think the suggestion by NTIA that the two incumbent cellular providers could compete for one 10 or 15 MHz license has merit to the extent that it promotes competition and limits the ability of cellular companies to monopolize the spectrum. Restricting the incumbent cellular providers in this way also helps to equalize the spectrum utilized by all competitors.

Another crucial issue affecting the ability of PCS to be a viable service and competitive with cellular is the amount of spectrum each licensee receives. If PCS is to succeed, both licensed and unlicensed PCS must have adequate spectrum to make these services viable, affordable, and available in the near term. In selecting the appropriate allocation of spectrum, the Commission should allocate sufficient spectrum so that disruption to current microwave users is minimized. Moreover, I think it is advisable that the Commission err on the side of "relatively large" blocks of spectrum, because to err on the other side of too little spectrum would be to place the future of PCS at risk. The views expressed by the NTIA in its September 14, 1993 letter, which recommended an allocation of 30 MHz for licensees and 35-40 MHz for unlicensed services, should be the minimum allocation the Commission considers. In addition, the Commission should stick to whatever spectrum decision it makes and not permit further consolidation of spectrum. However, joint ventures with small businesses should not be precluded.

Related to the amount of spectrum available to each licensee is the size of the service territory. A system of rural service areas (RSAs) and metropolitan service areas (MSAs) would be unworkable, both from the perspective of the Commission, which would have to administer the auctioning of thousands of licenses, and from the perspective of a PCS operator, which may not realize the economies of scale and scope necessary to compete with cellular. On the other hand, a nationwide license seems to go too far and could crowd out a number of small businesses and entrepreneurs. Thus, the Commission should seek a middle ground with Basic Trading Areas and Metropolitan Trading Areas that best advances the goals of competition and the values embedded in the Communications Act.


The Honorable James H. Quello
The Honorable Ervin S. Duggan
The Honorable Andrew C. Barrett
Page 3
September 20, 1993

The Commission also should take steps that promote the rapid deployment of data PCS and encourage entrepreneurs and innovation. With respect to data PCS, the Commission should consider allocating that portion of the spectrum that would be most easily cleared. In that way data PCS could move quickly to have clear spectrum and begin delivering its unique services to the public. It is equally important that the Commission remain faithful to its goal of encouraging innovation and entrepreneurship. For that reason, the Commission should take steps to ensure that those firms awarded a "pioneer's preference" have a meaningful opportunity to provide service along with other PCS license holders. The spectrum allocated to pioneer's preference holders, therefore, should be on par with the spectrum allocated to other major PCS licensees, both in terms of size and location.

Finally, I want to associate myself with two points made by my Committee colleagues, Representatives Boucher, Synar, Slattery, Tauzin, Hall, Cooper, Lambert, and Crapo, in a September 15, 1993 letter to the Commission. Specifically, they urge the Commission to require licensees to build out their service areas within a specific time frame, and to build out at a constant rate covering the entire geographic area. I think these points flow directly from the legislation that our Committee adopted and which was included in the Omnibus Budget Reconciliation Act, and I support these points completely.

I commend the Commission for the speed with which it is resolving these thorny issues. I appreciate your consideration of these views.

Sincerely,


Edward J. Markey
Chairman